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PROJECT NO. 51841

REVIEW OF 16 TAC § 25.53	§	PUBLIC UTILITY COMMISSION
RELATING TO ELECTRIC SERVICE	§	
EMERGENCY OPERATIONS PLANS	§	OF TEXAS

GUADALUPE VALLEY ELECTRIC COOPERATIVE, INC.'S COMMENTS ON THE PROPOSAL FOR PUBLICATION

Guadalupe Valley Electric Cooperatives, Inc. (“GVEC”)¹ appreciates the opportunity to provide these comments to the Proposal for Publication in this project.²

I. Introduction

Emergency Operations Plans (“EOPs”) and the related Commission rule are intended to promote emergency preparedness and an effective response to emergency events.³ GVEC believes this purpose can be better achieved with certain changes to the proposed 16 TAC §25.53, particularly those recommended below and by Texas Electric Cooperatives, Inc. (“TEC”) in its separate filing. In particular, GVEC respectfully recommends the Commission eliminate or significantly narrow the scope of the requirement to provide the EOP to “local jurisdictions.”⁴ As explained below, this requirement invites unnecessary security risks while not providing a commensurate benefit. Moreover, eliminating or narrowing this requirement will reduce the undue administrative burden and cost on GVEC and its members, as well as similarly-situated market participants. GVEC’s other recommendations are also aimed at improving the EOPs’ effectiveness, adding clarity to the Commission’s requirements, and efficiently allocating resources by eliminating undue administrative burdens and costs.

¹ GVEC is a member-owned electric distribution cooperative that serves about 90,000 meters. GVEC has been serving Texans since 1938.

² Proposal for Publication of Repeal of 16 TAC §25.53 and Replacement with Proposed New 16 TAC §25.53 (Dec. 1, 2021) (“PFP”). The Proposal for Publication requested stakeholders’ comments by January 4, 2022. Thus, these comments are timely filed.

³ See, e.g., PUC Project No. 34202, *Rulemaking to Repeal P.U.C. Substantive Rule 25.53 and Propose New 25.53 Relating to Electric Service Emergency Operations Plans*, Order at 4 (Jan. 4, 2008) (“The intent of the rule is to ensure emergency preparedness.”)

⁴ Proposed 16 TAC §25.53(d)(4)(D).

II. Discussion

GVEC offers the following detailed comments, which are organized in a manner consistent with the organization of the proposed rule.⁵

a. An April 1, 2022 deadline to file a revised EOP likely provides insufficient time to adequately address the new requirements – Proposed 16 TAC §25.53(c)(1).

Proposed 16 TAC §25.53(c)(1) sets April 1, 2022 as the deadline for each entity to file an EOP that conforms to the new requirements contained in the EOP rule.

GVEC respectfully suggests this deadline be extended to June 1, 2022 (or later) to provide all entities with additional time to comply with the new requirements for EOPs. Although the exact requirements of the new rule are not yet known, the proposed 16 TAC §25.53 contains several new obligations that will require time to understand and properly address. As such, this rulemaking is similar to the prior revision to the EOP rule. In that prior rulemaking, the Commission gave entities more than four months in which to file new EOPs.⁶ GVEC believes a similar timeline would be reasonable for this rulemaking.

b. Wide distribution of the EOP increases the risk of unauthorized disclosure of security-sensitive information – Proposed 16 TAC §25.53(d)(4)(D).

Proposed 16 TAC §25.53(d)(4)(D) requires the entity to affirm that “the EOP or an appropriate summary has been distributed to local jurisdictions as needed.” GVEC recommends this requirement be eliminated or its scope narrowed.

As an initial matter, the term “local jurisdictions” is undefined and does not provide clear guidance for entities seeking to comply with this requirement. However, if the term is interpreted to include various municipal and county offices, including law enforcement and other first responders, then GVEC would be required to provide *more than 100 copies* of its EOP to these

⁵ PFP at 4 (“Comments should be organized in a manner consistent with the organization of the proposed rules.”).

⁶ See PUC Project No. 34202, *Rulemaking to Repeal P.U.C. Substantive Rule 25.53 and Propose New 25.53 Relating to Electric Service Emergency Operations Plans*, Order at 7-8 (Jan. 4, 2008) (The rule was adopted at the December 17, 2007 Open Meeting and set May 1, 2008 as the deadline to file EOPs. Thus, the time provided to entities was 137 days or 4.5 months.)

local jurisdictions. This is because GVEC's service territory, like many electric cooperatives, is expansive, covering 3,500 square miles and 13 counties.

The significant number of copies this rule would require—which may be required annually or more frequently if a significant change is made to the EOP in the interim—present a security risk as well as an administrative burden. As the Commission recognizes in other contexts,⁷ the more copies of a document are distributed, the more likely unauthorized disclosure becomes. This risk is compounded by the practical and logistical efforts that would be necessary to ensure each local jurisdiction has an updated copy of the EOP at least once a year.

Unless the local jurisdiction has requested a copy of the EOP, it is doubtful the jurisdiction would derive sufficient value from storing a copy. Moreover, because the EOPs contain security-sensitive information related to NERC critical infrastructure, such as operating procedures for transmission and distribution load shed, and cyber and physical security procedures, the burden of properly storing and disposing of the EOPs may cause local jurisdictions to prefer not to receive a copy in the first place. Relatedly, as the Commission is well aware, a public entity has significant obligations under the Public Information Act concerning the records it holds. Although the Texas Attorney General has issued official opinions determining certain information in EOPs is exempt from public disclosure, the exercise of this exemption requires the document's custodian to identify the exempt information, withhold the document (or relevant portions of the document) under tight time constraints, and timely notify the document's owner so a proper objection to the document's disclosure can be made. These are additional, indirect administrative burdens that should be considered when determining the proper scope of this requirement.

For these reasons, GVEC respectfully requests this requirement be eliminated or its scope significantly reduced.

⁷ Commission's standard Protective Order at ¶¶ 7-8 ("Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made in order to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record." And "The Reviewing Party shall limit the number of Reviewing Representatives that review each Highly Sensitive Protected document to the minimum number of persons necessary.")

c. Requirements related to the communications plan and handling of customer complaints could be clarified – Proposed 16 TAC §25.53(d)(5).

The proposed 16 TAC §25.53(d)(5)(A) requires:

An entity with transmission or distribution service operations must describe the procedures for handling complaints and for communicating with the public; the media; customers; the commission; local and state governmental entities, officials, and emergency operations centers; the applicable Reliability Coordinator; and critical load customers directly served during an emergency.

GVEC requests that the Commission provide additional detail and specificity concerning the communications plan required by this provision. Additionally, it may be helpful to add language to better identify the type of complaint referred to in this provision. For example, the phrase could state “complaints related to the emergency event” in order to clarify that this provision does not relate to non-emergency complaints.

d. Certain information required in the EOP is administratively burdensome and lacks a corresponding benefit – Proposed 16 TAC §25.53(d) and (e).

The proposed 16 TAC §25.53(d) and (e) contain substantial additions to the information required in the EOP. Notably, many of these required items are not essential parts of a functioning EOP. For example, the affidavit attesting to certain regulatory requirements being fulfilled will not help operations personnel who are restoring the system during an emergency.⁸ Such requirements, including distribution logs, pre-event plans, and after-action reports, may be separated into a different document in order to ensure the EOP does not become an unwieldy, cumbersome document. Accordingly, GVEC recommends the required contents of the EOP remain focused on assisting operations personnel in responding safely and efficiently to emergency events.

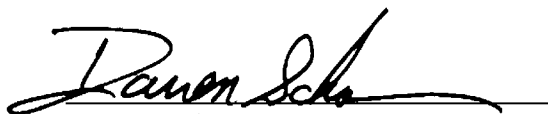
⁸ Proposed 16 TAC §25.53(d)(4).

III. Conclusion

GVEC thanks the Commission and its Staff for their work on this rulemaking project and for the invitation to submit these comments. GVEC looks forward to continuing to work with the Commission and stakeholders to achieve the shared goal of improving the safety of the Texas grid during times of emergency.

Respectfully submitted,

Guadalupe Valley Electric Cooperative, Inc.

A handwritten signature in black ink, appearing to read "Darren Schauer", written over a horizontal line.

Darren Schauer
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GUADALUPE VALLEY ELECTRIC COOPERATIVE, INC.'S
EXECUTIVE SUMMARY

- 1. Wide distribution of the EOP increases the risk of unauthorized disclosure of security-sensitive information (proposed 16 TAC §25.53(d)(4)(D)).**
 - EOPs contain security-sensitive information, including information related to NERC critical infrastructure, such as operating procedures for transmission and distribution load shed, and cyber and physical security procedures. The more copies of a document are distributed, the more likely unauthorized disclosure becomes.
 - Requiring a wide distribution of the EOPs increases the administrative costs for market participants, especially when combined with frequent filing requirements. As proposed, this rule would require GVEC to distribute more than 100 copies of its EOP each year (or more frequently, if updated) to various local jurisdictions.
 - Unless the local jurisdiction has requested a copy of the EOP, it is doubtful the jurisdiction would derive sufficient value from storing a copy.
 - Maintaining EOPs creates administrative burdens for local jurisdictions, including burdens related to appropriate Public Information Act response.
- 2. An April 1, 2022 deadline to file a revised EOP likely provides insufficient time to adequately address the new requirements (proposed 16 TAC §25.53(c)(1)).**
 - Additional time to prepare revised EOPs is recommended given the additional information being required.
 - The prior EOP rulemaking allowed entities approximately 4.5 months to submit complying EOPs; a similar timeline would be reasonable for this rulemaking.
- 3. Certain information required in the EOP is administratively burdensome and lacks a corresponding benefit (proposed 16 TAC §25.53(d) and (e)).**
 - Unnecessary information, including affidavits attesting to regulatory compliance, distribution logs, pre-event plans, and after-action reports, may be separated into a different document to ensure the EOP does not become an unwieldy, cumbersome document. The required contents of the EOP should remain focused on assisting operations personnel in responding safely and efficiently to emergency events.
- 4. Requirements related to the communications plan and handling of customer complaints could be clarified (proposed 16 TAC §25.53(d)(5)).**